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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

DERRICK SATCHELL, KALINI BOYKIN, VALERIE BROWN, RICK GONZALES, CYNTHIA GUERRERO, RACHEL HUTCHINS, DANIEL SHERMAN, KELVIN SMITH, SR., and KEN STEVENSON, on behalf of themselves and all others similarly situated.

Plaintiff:

v.

FEDEX EXPRESS, a Delaware corporation.

Defendant.

Case Nos. C03-02659 SI; C03-02878 SI

**SUPPLEMENTAL DECLARATION OF
EVELYN L. BECKER IN SUPPORT OF
DEFENDANT'S REPLY TO PLAINTIFFS'
OPPOSITION TO DEFENDANT'S MOTION
IN LIMINE NO. 9 (PRECLUDE PLAINTIFFS'
EXPERT DR. WILLIAM T. BIELBY'S
EVIDENCE REGARDING BIAS IN THE
FEDEX PERSONNEL SYSTEM)**

Hearing Date: March 2, 2007
Hearing Time: 9:00 a.m.

1 I, Evelyn L. Becker, hereby declare as follows:

2
3 1. I am a member in good standing of the State Bar of California. I am a partner in
4 the law firm of O'Melveny & Myers LLP, and one of the counsel for the Defendant Federal
5 Express Corporation, in this case. I make this supplemental declaration in support of Defendant's
6 Reply to Plaintiffs' Opposition to Motion in Limine No. 9 (Preclude Plaintiffs' Expert Dr.
7 William T. Bielby's Evidence Regarding Bias in the FedEx Personnel System).

8 2. Attached to this Declaration as Exhibit A are relevant portions of the October 13,
9 2004 deposition of William T. Bielby, Ph.D.

10

11 I declare under penalty of perjury under the laws of the United States that the foregoing is
12 true and correct.

13

Executed this 9th day of February, 2007.

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15

/s/ Evelyn L. Becker
Evelyn. L. Becker

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EXHIBIT A

William T. Bielby

October 13, 2004

Washington, DC

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1 UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF CALIFORNIA

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4 DERRICK SATCHELL, an individual,) *CONTINUED*
5 et al., on behalf of themselves)
6 and all others similarly situated,)

7 Plaintiffs,)

8 vs.) Case No.

9 FEDEX CORPORATION, a Delaware) 2002075455
10 corporation,

11 Defendant.)

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14 The deposition of WILLIAM T. BIELBY,
15 Ph.D., was taken on Wednesday, October 13,
16 2004, commencing at 8:28 a.m., at the offices
17 of O'Melveny & Myers, 1625 I Street, N.W.,
18 Washington, D.C., before Sal Napolitano, Notary
19 Public in and for the District of Columbia.

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William T. Bielby

Washington, DC

October 13, 2004

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1 in the management literature to name a specific
2 company, no. And I wouldn't necessarily
3 suggest this as a scientific approach, but we
4 could go into Google and type in performance
5 evaluation audit best practices and I wouldn't
6 be surprised if something comes up from the
7 management literature that identifies specific
8 companies as exemplars for doing this kind of
9 thing.

10 Q. What literature are you aware of
11 that recommends systematic random audits as a
12 matter of policy for performance evaluations?

13 A. I'm not sure whether, you know,
14 random audit is a term you would find as a term
15 of art in the HR management area, but it's -- I
16 mean I think it's part of what is understood to
17 be sound management practice to have mechanisms
18 in place to see that your performance
19 evaluation system is implemented as you
20 designed it.

21 Q. Can you identify any literature that
22 recommends what you referred to as systematic

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1 and auditing type service. Again, People Click
2 and companies in that area as well, law firms
3 like Morrison & Foerster, I believe your firm
4 does that kind of thing as well to some extent,
5 I'm not familiar with the details of what you
6 advise your clients, but there's certainly a
7 lot that can be done in terms of oversight and
8 monitoring of promotion processes and promotion
9 outcomes.

10 Q. Other than Boeing are you aware of
11 any other companies that have the type of
12 monitoring of promotion practices that you
13 think is appropriate?

14 A. Well, again there are companies out
15 there that sell that service and they're still
16 in business so -- and I -- actually we could
17 probably go to their Web sites and they'll
18 mention who their clients are and that will
19 give us a sense of some of the companies who
20 are doing these kinds of things.

21 Q. Can you identify any companies other
22 than Boeing?

William T. Bielby

Washington, DC

October 13, 2004

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1 A. Yes, as I already testified to, the
2 one that I was involved in the litigation
3 context a short while ago.

4 Q. How large was that company?

5 A. Big. You know, pretty far up in the
6 Fortune 500.

7 Q. What type of industry was that?

8 A. I can't do that. I'd be telling you
9 the company. Generally, manufacturing.

10 Q. Are you aware of any other companies
11 that have achieved a better solution than FedEx
12 to the concern about biased stereotyping in
13 performance evaluations?

14 A. You know, my opportunities for doing
15 detailed analyses of a performance evaluation
16 system is pretty much limited to litigation
17 contexts as I think we covered in my deposition
18 testimony today. So I tend to see the ones
19 where concerns have been raised about
20 discrimination and in particular the arbitrary
21 and discretionary exercise of managerial
22 authority. You know, I mean again thinking